

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ALLEN HORTON, II,

Plaintiff,

v.

WILLIAM GITTERE, et al.,

Defendants.

Case No. 3:21-cv-00280-LRH-CLB

ORDER

This action began with a pro se civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. Plaintiff has applied to proceed *in forma pauperis*. (ECF No.1). Based on the financial information provided, the Court finds that Plaintiff is unable to prepay the full filing fee in this matter.

The Court entered a screening order on January 18, 2022. (ECF No. 5). The screening order granted Plaintiff leave to file a first amended complaint to correct the deficiencies of his Complaint by February 17, 2022. (*Id.* at 18). Plaintiff did not file an amended complaint, so the Court ordered a 90-day stay for settlement purposes and entered a subsequent order assigning the parties to mediation by a court-appointed mediator. (ECF Nos. 7, 9). The parties engaged in mediation, but a settlement was not reached. (ECF No. 14).

For the foregoing reasons, **IT IS ORDERED** that:

1. Plaintiff's application to proceed *in forma pauperis* (ECF No. 1) is **GRANTED**. Plaintiff shall not be required to pay an initial installment of the filing fee. If this action is dismissed, the full filing fee must still be paid pursuant to 28 U.S.C. § 1915(b)(2).

2. The movant herein is permitted to maintain this action to conclusion without the necessity of prepayment of any additional fees or costs or the giving of security therefor.

1 3. Pursuant to 28 U.S.C. § 1915, as amended by the Prison Litigation Reform
2 Act, the Nevada Department of Corrections will forward payments from the account of
3 **ALLEN HORTON, #1195393** to the Clerk of the United States District Court, District of
4 Nevada, 20% of the preceding month's deposits (in months that the account exceeds
5 \$10) until the full \$350 filing fee has been paid for this action. The Clerk of the Court will
6 send a copy of this order to the Finance Division of the Clerk's Office and the attention of
7 **Chief of Inmate Services for the Nevada Department of Corrections**, P.O. Box 7011,
8 Carson City, NV 89702.

9 4. The Clerk of the Court shall electronically **SERVE** a copy of this order and
10 a copy of Plaintiff's complaint (ECF No. 6) on the Office of the Attorney General of the
11 State of Nevada by adding the Attorney General of the State of Nevada to the docket
12 sheet. This does not indicate acceptance of service.

13 5. Service must be perfected within ninety (90) days from the date of this order
14 pursuant to Fed. R. Civ. P. 4(m).

15 6. Subject to the findings of the screening order (ECF No. 5), within 21 days
16 of the date of entry of this order, the Attorney General's Office shall file a notice advising
17 the Court and Plaintiff of: (a) the names of the defendants for whom it accepts service;
18 (b) the names of the defendants for whom it does not accept service, and (c) the names
19 of the defendants for whom it is filing the last-known-address information under seal. As
20 to any of the named defendants for whom the Attorney General's Office cannot accept
21 service, the Office shall file, under seal, but shall not serve the inmate Plaintiff the last
22 known address(es) of those defendant(s) for whom it has such information. If the last
23 known address of the defendant(s) is a post office box, the Attorney General's Office shall
24 attempt to obtain and provide the last known physical address(es).

25 7. If service cannot be accepted for any of the named defendant(s), Plaintiff
26 shall file a motion identifying the unserved defendant(s), requesting issuance of a
27 summons, and specifying a full name and address for the defendant(s). For the
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1 defendant(s) as to which the Attorney General has not provided last-known-address
2 information, Plaintiff shall provide the full name and address for the defendant(s).

3 8. If the Attorney General accepts service of process for any named
4 defendant(s), such defendant(s) shall file and serve an answer or other response to the
5 complaint (ECF No. 6) within 60 days from the date of this order.

6 9. Plaintiff shall serve upon defendant(s) or, if an appearance has been
7 entered by counsel, upon their attorney(s), a copy of every pleading, motion or other
8 document submitted for consideration by the Court. If Plaintiff electronically files a
9 document with the Court's electronic-filing system, no certificate of service is required.
10 Fed. R. Civ. P. 5(d)(1)(B); Nev. Loc. R. IC 4-1(b); Nev. Loc. R. 5-1. However, if Plaintiff
11 mails the document to the Court, he shall include with the original document submitted
12 for filing a certificate stating the date that a true and correct copy of the document was
13 mailed to the defendants or counsel for the defendants. If counsel has entered a notice
14 of appearance, Plaintiff shall direct service to the individual attorney named in the notice
15 of appearance, at the physical or electronic address stated therein. The Court may
16 disregard any document received by a district judge or magistrate judge which has not
17 been filed with the Clerk, and any document received by a district judge, magistrate judge,
18 or the Clerk which fails to include a certificate showing proper service when required.

19 10. This case is no longer stayed.

20 DATED THIS 12th day of May, 2022.

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23 UNITED STATES MAGISTRATE JUDGE
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